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9 EMERGENCY RESPONSE, INC.

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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

LIFE ALERT EMERGENCY  
RESPONSE, INC., a California  
corporation,

Plaintiff,

v.

LIFE PROTECT 24/7, INC., a Virginia  
corporation; and DOES 1 through 10,  
inclusive,

Defendants.

CASE NO. 2:19-cv-6816

**COMPLAINT FOR:**

1. **TRADEMARK  
INFRINGEMENT;**
2. **FALSE ADVERTISING;**
3. **VIOLATION OF 15 U.S.C.  
§1125(a)(1)(A); AND**
4. **UNFAIR COMPETITION.**

**DEMAND FOR JURY TRIAL**

1 Plaintiff LIFE ALERT EMERGENCY RESPONSE, INC. ("Life Alert")  
2 alleges as follows:

3 **JURISDICTION AND VENUE**

4 1. This is a civil action for trademark infringement, false advertising,  
5 false designation of origin, and unfair competition arising under the Lanham Act of  
6 1946, as amended, 15 U.S.C. §§1051-1127. The Court has federal jurisdiction over  
7 this matter pursuant to 15 U.S.C. §1121 and 28 U.S.C. §§1331 and 1338(a) and (b)  
8 and supplemental jurisdiction over Life Alert's claims arising under state law  
9 pursuant to 28 U.S.C. §1367.

10 2. Venue is proper in this Court pursuant to 28 U.S.C. §1391(b) because a  
11 substantial part of the events or omissions giving rise to Life Alert's claims occurred  
12 in this District, Life Alert resides in this District, and Defendants do business in this  
13 District. Life Alert is informed and believes that Defendants are subject to personal  
14 jurisdiction in this District insofar as they conduct business and solicit business in  
15 this District and California including through Defendant Life Protect 24/7, Inc.'s  
16 interactive website and have offered for sale and/or sold Defendant Life Protect  
17 24/7, Inc.'s emergency response services and systems and shipped equipment for its  
18 systems to residents of this District by virtue of the fraudulent advertisements  
19 infringing Life Alert's trademarks that are the subject of Life Alert's claims alleged  
20 herein.

21 **PARTIES**

22 3. Life Alert is a California corporation with its principal place of  
23 business in the County of Los Angeles, California.

24 4. Life Alert is informed and believes, and thereupon alleges, that  
25 Defendant Life Protect 24/7, Inc. ("Defendant Life Protect 24/7"), is a Virginia  
26 corporation and is subject to the jurisdiction of this Court.

1           5.       The true names and capacities, whether individual, corporate, associate  
2 or otherwise of defendants DOES 1 through 10, inclusive, are unknown to Life Alert  
3 who therefore sues said defendants by such fictitious names. Life Alert is informed  
4 and believes and based thereon alleges that each of the fictitiously named defendants  
5 is responsible in some manner for the events, acts, occurrences and liabilities alleged  
6 and referred to herein. Life Alert will seek leave to amend this Complaint to allege  
7 the true names and capacities of these DOE defendants when the same are  
8 ascertained.

9           6.       Plaintiff is informed and believes and based thereon alleges that at all  
10 times mentioned herein each of the defendants authorized, directed, participated in,  
11 aided and abetted, contributed to, had knowledge of, ratified, accepted the benefits  
12 of, were joint tortfeasors as to and/or were vicariously liable for the wrongful  
13 conduct alleged herein.

#### 14                           **SUBSTANTIVE ALLEGATIONS**

#### 15                           **PLAINTIFF LIFE ALERT AND ITS TRADEMARKS**

16           7.       Life Alert has been in the business of providing emergency medical  
17 response services and systems and related products for seniors on a 24-hour a day, 7  
18 day a week basis for more than thirty years.

19           8.       Life Alert is the owner of the Federal Trademark Registrations for  
20 LIFE ALERT, U.S. Registration No. 2,552,506; LIFE ALERT YOU ARE NEVER  
21 ALONE 24/7, U.S. Registration No. 3,212,604; LIFE ALERT MOBILE, U.S.  
22 Registration No. 4,053,816; LIFE ALERT, U.S. Registration No. 4,708,297; and  
23 LIFE ALERT EMERGENCY RESPONSE, U.S. Registration No. 5,522,328. Life  
24 Alert also is the owner of numerous common law trademarks consisting or  
25 incorporating the LIFE ALERT element including, LIFE ALERT THE LIFE  
26 SAVING NETWORK. Life Alert's registered and common law trademarks  
27 incorporating the LIFE ALERT element are hereafter collectively referred to as  
28 "Life Alert Marks."

1       9.       The Life Alert Marks are instantly recognizable as being associated  
2 with the goods and services of Life Alert. The Life Alert Marks have appeared in  
3 numerous advertisements, websites, brochures, and solicitations for Life Alert.

4       10.       Life Alert has expended great effort and substantial sums of money in  
5 making the Life Alert Marks well known to the public. In so doing, Life Alert has  
6 established a reputation for quality in connection with all of its products and  
7 services bearing or sold under the Life Alert Marks.

8       11.       Life Alert retains the sole and exclusive right in the United States to use  
9 and control the use of the Life Alert Marks together with the right to bring and  
10 maintain actions relating to the infringement, disparagement, dilution, or other  
11 misappropriation of the Life Alert Marks.

12       12.       Products and services bearing and sold under the Life Alert Marks have  
13 achieved popularity and fame in the marketplace.

14       13.       As a result of the high quality of the products and services sold by Life  
15 Alert in conjunction with the Life Alert Marks, and as a result of the extensive  
16 advertising, sale and public acceptance of those products and services, the public has  
17 come to view the Life Alert Marks to identify Life Alert's products and services  
18 exclusively. The Life Alert Marks have come to symbolize the goodwill created by  
19 the sale and distribution of high-quality products and services of Life Alert.

20       **DEFENDANTS AND THEIR UNLAWFUL USE OF THE LIFE ALERT**

21       **MARKS TO DECEIVE CONSUMERS**

22       14.       Defendant Life Protect 24/7 is a direct competitor of Life Alert,  
23 providing emergency medical response services and systems and related products  
24 for seniors.

25       15.       In or about April 8, 2014, Defendant Life Protect 24/7 was put on  
26 notice of Life Alert's ownership of the Life Alert Marks when Life Alert's  
27 attorneys sent it a letter which, among other things, demanded that Defendant Life  
28 Protect 24/7 cease and desist using the name "USA Life Alert, Inc."

1       16.       Notwithstanding the notice Defendant Life Protect 24/7 received from  
2 Life Alert's attorney in 2014, Life Alert is informed and believes, and thereupon  
3 alleges, that Defendants have subsequently willfully violated Life Alert's rights in  
4 the Life Alert Marks by, among other things, fraudulently using the Life Alert  
5 Marks and/or confusingly similar marks in connection with online and offline  
6 newspaper advertisements.

7       17.       Life Alert has neither authorized, nor consented to the use by  
8 Defendants of the Life Alert Marks, any colorable imitation of them, or any mark  
9 confusingly similar to them.

10      18.       More specifically, Defendants' advertisements at issue falsely indicate  
11 that they are advertisements of Life Alert as part of a scam to deceive consumers  
12 into believing that they can obtain Life Alert's emergency response services and  
13 systems by calling the 800 number in the advertisements ("Fake Life Alert Ads"),  
14 when in fact consumers cannot obtain Life Alert's emergency response services and  
15 systems by calling the 800 number in the Fake Life Alert Ads.

16      19.       Consumers who call the 800 number in the Fake Life Alert Ads have  
17 encountered persons that falsely indicate that they are representatives of Life Alert.  
18 However, consumers that make an order for emergency response services and  
19 systems during these phone calls are billed by Defendant Life Protect 24/7 for its  
20 emergency response services and systems and are shipped Defendant Life Protect  
21 24/7's equipment for its emergency response systems.

22      20.       As one particularly egregious example of a Fake Life Alert Ad that  
23 Defendants are using as part of their scam to deceive consumers, Defendants  
24 unlawfully copied the design of a genuine Life Alert advertisement (see Image No. 1  
25 below) in its entirety except that they changed the Life Alert's 800 number to an 800  
26 number, which if called by consumers, has been used to sell Defendant Life Protect  
27 24/7's emergency response services and systems (see Image No. 2 below).

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Image No. 1 – Genuine Life Alert Advertisement With Life Alert’s 800 Number



Image No. 2 – Fake Life Alert Advertisement With 800 Number Used For Defendant Life Protect 24/7 Emergency Response Services And Systems



21. Defendants' fraudulent use of the Life Alert Marks and the Fake Life Alert Ads has caused confusion, mistake, and has deceived consumers as to the

1 affiliation or association of the Defendants with Life Alert, and as to the origin,  
2 sponsorship, or approval of the Defendants' goods, services, and/or commercial  
3 activities by Life Alert. Confused consumers who have been deceived by  
4 Defendants' scam are calling Life Alert, for among other things, to cancel the  
5 emergency response services and systems which they were deceived into believing  
6 they ordered from Life Alert and/or to find out why they have not received  
7 equipment for the emergency response systems that they were deceived into  
8 believing would be shipped to them by Life Alert.

9 22. Life Alert is informed and believes, and thereupon alleges, the  
10 Defendants' purpose in utilizing the Life Alert Marks, and the Fake Life Alert Ads  
11 in the manner alleged herein is an attempt to benefit unfairly from the valuable  
12 goodwill established at great expense and effort throughout the United States by  
13 Life Alert through the use of the Life Alert Marks.

14 23. The fraudulent scam being perpetrated by Defendants as alleged above  
15 is causing irreparable harm to Life Alert and to the public, and should be enjoined  
16 by this Court.

17 **FIRST CLAIM FOR RELIEF**

18 **(Trademark Infringement Under The Lanham Act §32, 15 U.S.C. §1114 And**  
19 **Common Law Against Defendants)**

20 24. Life Alert repeats, repleads and realleges the allegations contained in  
21 Paragraphs 1 through 23 as though fully set forth herein.

22 25. The aforesaid acts of Defendants constitute willful infringement of the  
23 Life Alert Marks, in violation of Section 32(1) of the Lanham Act of 1946, as  
24 amended, 15 U.S.C. §1114(1) and under common law.

25 26. Furthermore, the aforesaid acts of Defendants constitute use of a  
26 counterfeit mark in violation of Sections 32(1) and 34(d)(1)(B) of the Lanham Act,  
27 15 U.S.C. 15 U.S.C. §§1114(1) and 1116(d)(1)(B).

28 27. By reason of the acts of Defendants alleged herein, Life Alert has

1 suffered, is suffering and will continue to suffer damages and irreparable injury.  
2 Unless Defendants are restrained from continuing their wrongful acts, the damage to  
3 Life Alert will increase. Life Alert has no adequate remedy at law.

4 **SECOND CLAIM FOR RELIEF**

5 **(False Advertising Under 15 U.S.C. §1125(a)(1)(B) Against Defendants)**

6 28. Life Alert repeats, repleads and realleges the allegations contained in  
7 Paragraphs 1 through 27 as though fully set forth herein.

8 29. Defendants' Fake Life Alert Ads falsely state and are intended by  
9 Defendants to indicate that they are advertisements of Life Alert.

10 30. The false and fraudulent statements in the Fake Life Alert Ads have  
11 thus far deceived a substantial amount of consumers who responded to the Fake Life  
12 Ads and are likely to continue to do so.

13 31. Defendants' false statements in the Fake Life Alert Ads are material to  
14 consumers and have induced consumers who have been deceived by the Fake Life  
15 Alert Ads into purchasing Defendant Life Protect 24/7's emergency response  
16 services and systems instead of Life Alert's emergency response services and  
17 systems and are likely to continue to do so.

18 32. Defendants' acts as alleged above, as well as others, constitute false  
19 advertising in violation of the Lanham Act, as amended, 15 U.S.C. §1125(a)(1)(B).

20 33. By reason of the acts of Defendants alleged herein, Life Alert has  
21 suffered, is suffering and will continue to suffer damages and irreparable injury.  
22 Unless Defendants are restrained from continuing its wrongful acts and ordered to  
23 retract and correct their false advertising, the damage to Life Alert will increase.  
24 Life Alert has no adequate remedy at law.

25 **THIRD CLAIM FOR RELIEF**

26 **(Violation of Lanham Act, 15 U.S.C. §1125(a)(1)(A) Against Defendants)**

27 34. Life Alert repeats, repleads and realleges the allegations contained in  
28 Paragraphs 1 through 33 as though fully set forth herein.



1       35. Defendants' acts as alleged above constitute unfair competition and a  
2 false designation of origin which is likely to cause confusion, or to cause mistake, or  
3 to deceive as to the affiliation, connection or association of Defendants with Life  
4 Alert or as to the origin, sponsorship, or approval of Defendants' goods, services  
5 and/or activities by Life Alert in violation of the Lanham Act, as amended, 15  
6 U.S.C. §1125(a)(1)(A).

7       36. By reason of the acts of Defendants alleged herein, Life Alert has  
8 suffered, is suffering and will continue to suffer damages and irreparable injury.  
9 Unless Defendants are restrained from continuing its wrongful acts, the damage to  
10 Life Alert will increase. Life Alert has no adequate remedy at law.

11                   **FOURTH CLAIM FOR RELIEF**

12                   **(Unfair Competition Against Defendants)**

13       37. Life Alert repeats, repleads and realleges paragraphs 1 through 36,  
14 inclusive, of this Complaint and incorporates the same herein by the reference as  
15 though set forth in full.

16       38. The conduct of Defendants as herein alleged, constitutes unfair  
17 competition in violation of the law of the State of California. The acts and conduct  
18 of Defendants complained of herein have caused Life Alert irreparable injury, and  
19 will, unless retrained, further impair the value of the Life Alert Marks, intellectual  
20 property rights, reputation, and goodwill of Life Alert. Life Alert has no adequate  
21 remedy at law.

22       39. Life Alert is informed and believes that Defendants have unlawfully  
23 obtained profits through their acts of unfair competition. Defendants should be  
24 forced to disgorge such unlawful profits to Life Alert.

25       40. Upon information and belief, the conduct of Defendants was  
26 undertaken with the intent to injure Life Alert, or with a willful and conscious  
27 disregard of Life Alert's rights as such malicious conduct is defined in Code of Civil  
28 Procedure §3294. Life Alert is entitled to punitive and exemplary damages, against

1 Defendants for the sake of example and to punish them for their unlawful conduct.

2 WHEREFORE, Life Alert prays for judgment against Defendants as follows:

3 1. Defendants, their officers, agents, servants, employees and attorneys,  
4 and those persons in active concert or participation with them, be preliminarily and  
5 permanently enjoined from:

6 a. Using the Life Alert Marks or any of them, or any colorable  
7 imitation thereof, or any other name or mark likely to cause confusion, mistake, or  
8 deception, in connection with the sale, offering for sale, distribution, manufacturing,  
9 advertising, or promotion of their goods or services;

10 b. Holding themselves out as Life Alert, using Fake Life Alert Ads  
11 or otherwise engaging in false and/or misleading advertising and ordering them to  
12 retract and correct their false and/or misleading advertising;

13 c. Using any false designation of origin or false description that  
14 can, or is likely to, lead the trade or public, or individual members thereof, to  
15 believe that any product or service manufactured, distributed, sold, offered for sale,  
16 or advertised by Defendants are in any manner associated or connected with Life  
17 Alert or is sold, manufactured, licensed, sponsored, or approved or authorized by  
18 Life Alert;

19 d. Engaging in any other activity constituting an infringement of  
20 Life Alert's trademark rights or otherwise unfairly competing with Life Alert;

21 e. Engaging in any other activity that dilutes the distinctive quality  
22 of the Life Alert Marks by, among other things, using the Life Alert Marks in  
23 connection with the sale, offering for sale, distribution, manufacturing, advertising,  
24 or promotion of its goods or services; and

25 2. Defendants be directed to deliver up to Life Alert all products bearing  
26 the Life Alert Marks and any copy, simulation, variation or colorable imitations of  
27 the Life Alert Marks, and any documents or tangible things that discuss, describe,  
28 mention or relate to such products;



**DEMAND FOR JURY TRIAL**

Plaintiff LIFE ALERT EMERGENCY RESPONSE, INC. hereby  
demands a jury trial in this action.

DATED: August 6, 2019

KRANE & SMITH, APC

By: /s/ Ralph C. Loeb

Ralph C. Loeb

Attorneys for Plaintiff LIFE ALERT  
EMERGENCY RESPONSE, INC.